



CUSTOMS AND EXCISE

EXCISE TAX ACT

Judicial review of decision by Rebates Processing Officer (Officer) at Canada Revenue Agency denying applicant extension of time to file three applications under *Excise Tax Act*, R.S.C., 1985, c. E-15, s. 256.2(7) for GST rebates — Rebates sought in relation to three new residential rental properties purchased by applicant — New residential rental property rebate (NRRPR) applications submitted after expiry of two-year statutory deadline found in Act, s. 256.2(7)(a)(iii) — Whether Minister of National Revenue having discretion under Act, s. 281 to extend time for filing rebate applications — Present application proceeding on basis that officer's decision showing Minister failed to exercise her discretion to extend time to file applications, to provide any reasons for same — Applicant relying on *Bonnybrook Park Industrial Development Co. Ltd. v. Canada (National Revenue)*, 2018 FCA 136 — Submitting, *inter alia*, that Federal Court of Appeal therein found that a provision providing for extension of time to file return also applying to requirement that was essentially a condition — Respondent noting that *Bonnybrook* dealing with question of whether Minister could extend filing deadline for corporate income tax return — Question before Court whether s. 281(1) giving Minister discretionary power to override opening words of s. 256.2(7) — If rebate application neither “return” nor provision of “information”, then s. 281(1) not applying to this matter — Applicant equating Act, s. 281(1) to *Income Tax Act*, R.S.C., 1985 (5th Supp.), c. 1, s. 220(3) so that *Bonnybrook* may apply — Those provisions not equivalent — *Bonnybrook* inapplicable to facts of case herein — Parliament adding s. 256.2(7)(a)(iii), including mandatory wording “shall not” to Act, with full knowledge of wording of s. 281(1) — If Parliament's intention had been to make s. 256.2(7) subject to s. 281(1), it would have done so either by amending s. 281(1) or by adding subparagraph with clear, unequivocal language as was done with s. 256(3)(b) — Fact that s. 281(1) general enactment, that s. 256.2(7)(a) particular enactment suitably addressing applicant's argument — Plain language of s. 256.2(7)(a) unequivocal — Application dismissed.

CHOTALIA V. CANADA (ATTORNEY GENERAL) (T-79-20, 2021 FC 279, Elliott J., reasons for judgment dated March 31, 2021, 20 pp.)